

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 722**  
97TH GENERAL ASSEMBLY

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Reported from the Committee on Seniors, Families and Pensions, May 8, 2013, with recommendation that the Senate Committee Substitute do pass.

1813S.04C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 86.200, 86.257, and 86.263, RSMo, and to enact in lieu thereof three new sections relating to police retirement.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 86.200, 86.257, and 86.263, RSMo, are repealed and  
2 three new sections enacted in lieu thereof, to be known as sections 86.200, 86.257,  
3 and 86.263, to read as follows:

86.200. The following words and phrases as used in sections 86.200 to  
2 86.366, unless a different meaning is plainly required by the context, shall have  
3 the following meanings:

4 (1) "Accumulated contributions", the sum of all mandatory contributions  
5 deducted from the compensation of a member and credited to the member's  
6 individual account, together with members' interest thereon;

7 (2) "Actuarial equivalent", a benefit of equal value when computed upon  
8 the basis of mortality tables and interest assumptions adopted by the board of  
9 trustees;

10 (3) "Average final compensation":

11 (a) With respect to a member who earns no creditable service on or after  
12 October 1, 2001, the average earnable compensation of the member during the  
13 member's last three years of creditable service as a police officer, or if the member  
14 has had less than three years of creditable service, the average earnable  
15 compensation of the member's entire period of creditable service;

16 (b) With respect to a member who is not participating in the DROP

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 pursuant to section 86.251 on October 1, 2001, who did not participate in the  
18 DROP at any time before such date, and who earns any creditable service on or  
19 after October 1, 2001, the average earnable compensation of the member during  
20 the member's last two years of creditable service as a policeman, or if the member  
21 has had less than two years of creditable service, then the average earnable  
22 compensation of the member's entire period of creditable service;

23 (c) With respect to a member who is participating in the DROP pursuant  
24 to section 86.251 on October 1, 2001, or whose participation in DROP ended  
25 before such date, who returns to active participation in the system pursuant to  
26 section 86.251, and who terminates employment as a police officer for reasons  
27 other than death or disability before earning at least two years of creditable  
28 service after such return, the portion of the member's benefit attributable to  
29 creditable service earned before DROP entry shall be determined using average  
30 final compensation as defined in paragraph (a) of this subdivision; and the  
31 portion of the member's benefit attributable to creditable service earned after  
32 return to active participation in the system shall be determined using average  
33 final compensation as defined in paragraph (b) of this subdivision;

34 (d) With respect to a member who is participating in the DROP pursuant  
35 to section 86.251 on October 1, 2001, or whose participation in the DROP ended  
36 before such date, who returns to active participation in the system pursuant to  
37 section 86.251, and who terminates employment as a police officer after earning  
38 at least two years of creditable service after such return, the member's benefit  
39 attributable to all of such member's creditable service shall be determined using  
40 the member's average final compensation as defined in paragraph (b) of this  
41 subdivision;

42 (e) With respect to a member who is participating in the DROP pursuant  
43 to section 86.251 on October 1, 2001, or whose participation in DROP ended  
44 before such date, who returns to active participation in the system pursuant to  
45 section 86.251, and whose employment as a police officer terminates due to death  
46 or disability after such return, the member's benefit attributable to all of such  
47 member's creditable service shall be determined using the member's average final  
48 compensation as defined in paragraph (b) of this subdivision; and

49 (f) With respect to the surviving spouse or surviving dependent child of  
50 a member who earns any creditable service on or after October 1, 2001, the  
51 average earnable compensation of the member during the member's last two years  
52 of creditable service as a police officer or, if the member has had less than two

53 years of creditable service, the average earnable compensation of the member's  
54 entire period of creditable service;

55 (4) "Beneficiary", any person in receipt of a retirement allowance or other  
56 benefit;

57 (5) "Board of police commissioners", any board of police commissioners,  
58 police commissioners and any other officials or boards now or hereafter  
59 authorized by law to employ and manage a permanent police force in such cities;

60 (6) "Board of trustees", the board provided in sections 86.200 to 86.366 to  
61 administer the retirement system;

62 (7) "Creditable service", prior service plus membership service as provided  
63 in sections 86.200 to 86.366;

64 (8) "DROP", the deferred retirement option plan provided for in section  
65 86.251;

66 (9) "Earnable compensation", the annual salary **established under**  
67 **section 84.160** which a member would earn during one year on the basis of the  
68 member's rank or position [as specified in the applicable salary matrix] plus any  
69 additional compensation for academic work and shift differential that may be  
70 provided by any official or board now or hereafter authorized by law to employ  
71 and manage a permanent police force in such cities. Such amount shall include  
72 the member's deferrals to a deferred compensation plan pursuant to Section 457  
73 of the Internal Revenue Code or to a cafeteria plan pursuant to Section 125 of the  
74 Internal Revenue Code or, effective October 1, 2001, to a transportation fringe  
75 benefit program pursuant to Section 132(f)(4) of the Internal Revenue  
76 Code. Earnable compensation shall not include a member's additional  
77 compensation for overtime, standby time, court time, nonuniform time or unused  
78 vacation time. Notwithstanding the foregoing, the earnable compensation taken  
79 into account under the plan established pursuant to sections 86.200 to 86.366  
80 with respect to a member who is a noneligible participant, as defined in this  
81 subdivision, for any plan year beginning on or after October 1, 1996, shall not  
82 exceed the amount of compensation that may be taken into account under Section  
83 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of  
84 living, for such plan year. For purposes of this subdivision, a "noneligible  
85 participant" is an individual who first becomes a member on or after the first day  
86 of the first plan year beginning after the earlier of:

87 (a) The last day of the plan year that includes August 28, 1995; or

88 (b) December 31, 1995;

89 (10) "Internal Revenue Code", the federal Internal Revenue Code of 1986,  
90 as amended;

91 (11) "Mandatory contributions", the contributions required to be deducted  
92 from the salary of each member who is not participating in DROP in accordance  
93 with section 86.320;

94 (12) **"Medical board", the board of three physicians of different**  
95 **disciplines appointed by the trustees of the police retirement board and**  
96 **responsible for arranging and passing upon all medical examinations**  
97 **required under the provisions of sections 86.200 to 86.366, which board**  
98 **shall investigate all essential statements and certificates made by or on**  
99 **behalf of a member in connection with an application for disability**  
100 **retirement and shall report in writing to the board of trustees its**  
101 **conclusions and recommendations, which can be based upon the**  
102 **opinion of a single member or that of an outside specialist if one is**  
103 **appointed, upon all the matters referred to such medical board;**

104 (13) "Member", a member of the retirement system as defined by sections  
105 86.200 to 86.366;

106 [(13)] (14) "Members' interest", interest on accumulated contributions at  
107 such rate as may be set from time to time by the board of trustees;

108 [(14)] (15) "Membership service", service as a policeman rendered since  
109 last becoming a member, except in the case of a member who has served in the  
110 armed forces of the United States and has subsequently been reinstated as a  
111 policeman, in which case "membership service" means service as a policeman  
112 rendered since last becoming a member prior to entering such armed service;

113 [(15)] (16) "Plan year" or "limitation year", the twelve consecutive-month  
114 period beginning each October first and ending each September thirtieth;

115 [(16)] (17) "Policeman" or "police officer", any member of the police force  
116 of such cities who holds a rank in such police force;

117 [(17)] (18) "Prior service", all service as a policeman rendered prior to the  
118 date the system becomes operative or prior to membership service which is  
119 creditable in accordance with the provisions of sections 86.200 to 86.366;

120 [(18)] (19) "Reserve officer", any member of the police reserve force of  
121 such cities, armed or unarmed, who works less than full time, without  
122 compensation, and who, by his or her assigned function or as implied by his or  
123 her uniform, performs duties associated with those of a police officer and who  
124 currently receives a service retirement as provided by sections 86.200 to 86.366;

125 [(19)] (20) "Retirement allowance", annual payments for life as provided  
126 by sections 86.200 to 86.366 which shall be payable in equal monthly installments  
127 or any benefits in lieu thereof granted to a member upon termination of  
128 employment as a police officer and actual retirement;

129 [(20)] (21) "Retirement system", the police retirement system of the cities  
130 as defined in sections 86.200 to 86.366;

131 [(21)] (22) "Surviving spouse", the surviving spouse of a member who was  
132 the member's spouse at the time of the member's death.

86.257. 1. Upon the application of [a member in service or of] the board  
2 of police commissioners **or any successor body**, any member who has completed  
3 ten or more years of creditable service **or upon the police retirement system**  
4 **created by sections 86.200 to 86.366 first attaining, after the effective**  
5 **date of this act, a funded ratio, as defined in section 105.660 and as**  
6 **determined by the system's annual actuarial valuation, of at least**  
7 **eighty percent, a member who has completed five or more years of**  
8 **creditable service** and who has become permanently unable to perform the  
9 duties of a police officer as the result of an injury or illness not exclusively caused  
10 or induced by the actual performance of his or her official duties or by his or her  
11 own negligence shall be retired by the board of [trustees of the police retirement  
12 system] **police commissioners or any successor body** upon certification by  
13 the medical [director] **board** of the police retirement system and approval by the  
14 board of trustees of the police retirement system that the member is mentally or  
15 physically unable to perform the duties of a police officer, that the inability is  
16 permanent or likely to become permanent, and that the member should be  
17 retired.

18 2. Once each year during the first five years following such member's  
19 retirement, and at least once in every three-year period thereafter, the board of  
20 trustees may, and upon the member's application shall, require any nonduty  
21 disability beneficiary who has not yet attained sixty years of age to undergo a  
22 medical examination at a place designated by the medical [director] **board** or  
23 such physicians as the medical [director] **board** appoints. If any nonduty  
24 disability beneficiary who has not attained sixty years of age refuses to submit  
25 to a medical examination, his or her nonduty disability pension may be  
26 discontinued until his or her withdrawal of such refusal, and if his or her refusal  
27 continues for one year, all rights in and to such pension may be revoked by the  
28 board of trustees.

29           3. If the medical [director] **board** certifies to the board of trustees that  
30 a nonduty disability beneficiary is able to perform the duties of a police officer,  
31 and if the board of trustees concurs on the report, then such beneficiary's nonduty  
32 disability pension shall cease.

33           4. If upon cessation of a disability pension under subsection 3 of this  
34 section, the former disability beneficiary is restored to active service, he or she  
35 shall again become a member, and he or she shall contribute thereafter at the  
36 same rate as other members. Upon his or her subsequent retirement, he or she  
37 shall be credited with all of his or her active retirement, but not including any  
38 time during which the former disability beneficiary received a disability pension  
39 under this section.

86.263. 1. Any member **in active service** who is permanently unable to  
2 perform the **full and unrestricted** duties of a police officer as the natural,  
3 proximate, and exclusive result of an accident occurring within the actual  
4 performance of duty at some definite time and place, through no negligence on the  
5 member's part, shall[, upon application,] be retired **by the board of police**  
6 **commissioners or any successor body** upon certification by [the medical  
7 director of the police retirement system and approval by the board of trustees of  
8 the police retirement system] **one or more physicians of the medical board**  
9 that the member is mentally or physically unable to perform the **full and**  
10 **unrestricted** duties of a police officer [and] , that the inability is permanent or  
11 [reasonably] likely to become permanent, **and that the member should be**  
12 **retired. The inability to perform the "full and unrestricted duties of a**  
13 **police officer" means the member is unable to perform all the essential**  
14 **job functions for the position of police officer as established by the**  
15 **board of police commissioners or any successor body.**

16           2. No member shall be approved for retirement under the provisions of  
17 subsection 1 of this section unless the application was made and submitted to the  
18 board of [trustees of the police retirement system] **police commissioners or**  
19 **any successor body** no later than five years following the date of accident,  
20 provided, that if the accident was reported within five years of the date of the  
21 accident and an examination made of the member within thirty days of the date  
22 of accident by a health care provider whose services were provided through the  
23 board of police commissioners with subsequent examinations made as requested,  
24 then an application made more than five years following the date of the accident  
25 shall be considered timely.

26           3. Once each year during the first five years following a member's  
27 retirement, and at least once in every three-year period thereafter, the board of  
28 trustees may require any disability beneficiary who has not yet attained sixty  
29 years of age to undergo a medical examination or medical examinations at a place  
30 designated by the medical [director] **board** or such physicians as the medical  
31 [director] **board** appoints. If any disability beneficiary who has not attained  
32 sixty years of age refuses to submit to a medical examination, his or her disability  
33 pension may be discontinued **by the board of trustees of the police**  
34 **retirement system** until his or her withdrawal of such refusal, and if his or her  
35 refusal continues for one year, all rights in and to such pension may be revoked  
36 by the board of trustees.

37           4. If the medical [director] **board** certifies to the board of trustees that  
38 a disability beneficiary is able to perform the duties of a police officer, [and if the  
39 board of trustees concurs with the medical director's determination,] then such  
40 beneficiary's disability pension shall cease.

41           5. If upon cessation of a disability pension under subsection 4 of this  
42 section, the former disability beneficiary is restored to active service, he or she  
43 shall again become a member, and he or she shall contribute thereafter at the  
44 same rate as other members. Upon his or her subsequent retirement, he or she  
45 shall be credited with all of his or her active service time as a member including  
46 the service time prior to receiving disability retirement, but not including any  
47 time during which the former disability beneficiary received a disability pension  
48 under this section.

49           6. If upon cessation of a disability pension under subsection 4 of this  
50 section, the former disability beneficiary is not restored to active service, such  
51 former disability beneficiary shall be entitled to the retirement benefit to which  
52 such former disability beneficiary would have been entitled if such former  
53 disability beneficiary had terminated service for any reason other than dishonesty  
54 or being convicted of a felony at the time of such cessation of such former  
55 disability beneficiary's disability pension. For purposes of such retirement  
56 benefits, such former disability beneficiary shall be credited with all of the former  
57 disability beneficiary's active service time as a member, but not including any  
58 time during which the former disability beneficiary received a disability  
59 beneficiary pension under this section.

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